IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.3263 OF 2004

Chhotalal Jivandas Rathod. ...Petitioner.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
Mr.Ditendra Mishra for the Petitioner.
Mr. Milind More, AGP for the Respondents.
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CORAM : DR.D.Y.CHANDRACHUD, J.

March 21, 2005.

P.C.:

The area in question was declared as a slum by a notification dated 8th December 1980 which was published in the Gazette on 1st January 1981. Upon the declaration of the slum, the hutment dwellers formed a Co-operative Society, namely, Sai Darshan Co-operative Housing Society (Proposed). The Society had approached the Additional Collector by a written application for the acquisition of the property which has been declared as a slum, namely, Survey No.246, Hissa No.4, CTS 5913, admeasuring 683.1 sq.mtrs., situated at village Ghatkopar/Kirol, Taluka Kurla, Mumbai Suburban District. In the affidavit in reply filed by the

Deputy Collector (Encroachment Removal) and Competent Authority, it has been stated that on receipt of the application, the Additional Collector forwarded the matter to the Deputy Collector for enquiry and report. The Deputy Collector submitted his report on 5th October 2000 to the Additional Collector and recommended that the property be acquired for redevelopment of the slum. Upon the report of the Deputy Collector, the Additional Collector sent his report to the Housing and Special Assistance Department of the State Government for acquisition of the property. Upon considering the report of these competent authorities, the Government issued a notification under Section 14(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The notification has been published in the Official Gazette on 4th February 2002. Section 14(2) provides that once a notice under sub-section (1) of Section 14 has been published in the Official Gazette, the land shall, on and from the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances. Provisions for payment of compensation have thereupon been made in Sections 16 to 21 of the Act. In these circumstances, once vesting has

been completed, I do not find any reason for the exercise of the writ jurisdiction under Article 226 of the Constitution. The judgment of Mr.Justice R. M. S. Khandeparkar in **Ramkali Sitaram Kushawaha (Kachhi) vs. The Deputy Collector (ENC) & Competent Authority, Kurla-I**, 2004(2) ALL MR 320, is clearly distinguishable because in the affidavit in reply filed on behalf of the State, it is clear that the competent authority had duly considered the matter and had made a representation to the State Government for acquisition after being satisfied that the conditions specified in sub-section (1) of Section 14 are duly fulfilled. There is no merit in the petition which is accordingly rejected.

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